United Nations S/2005/501

Security Council

Distr.: General
2 August 2005

Original: English

Letter dated 29 July 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 7 November 2002 (S/2002/1232).

The Counter-Terrorism Committee has received the attached supplementary report from the Comoros submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Note verbale dated 27 July 2005 from the Permanent Mission of the Comoros to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Union of the Comoros to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and, with reference to his letter dated 6 April 2005, has the honour, pursuant to paragraph 6 of Security Council resolution 1373 (2001), to submit herewith the supplementary report of the Government of the Union of the Comoros (see enclosure).

Enclosure

[Original: French]

Supplementary report of the Union of the Comoros in reply to the questions put by the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001)

Subparagraph 1 (b)

Please explain how the Comoros has criminalized, or intends to criminalize, the wilful collection and provision of funds related to terrorism. In this regard, how would the Comoros implement the offences set forth in article 2 of the Convention for the Suppression of the Financing of Terrorism that the Comoros intends to ratify in the near future? Will the proposed draft law concerning the prevention and suppression of terrorism, mentioned in the report, deal with those offences? In this regard, please indicate within what time frame the future Assembly of the Union of the Comoros is expected to be operational.

The Union of the Comoros ratified the International Convention for the Suppression of the Financing of Terrorism on 25 September 2003. The draft law on the prevention and suppression of terrorism will deal with the offence of the financing of terrorism, as defined in article 2 of the Convention, to the extent that it has not yet been incorporated into the Order of 28 January 2003 on the laundering and confiscation of the proceeds of crime and on international cooperation in that regard.

The Assembly of the Union of the Comoros was officially installed at Moroni on 6 June 2004

Subparagraph 1 (c)

What provisions and procedures exist to freeze funds and other financial assets belonging to alleged terrorists who are present either in the territory of the Comoros or abroad?

On 28 January 2003, the President of the Union signed an Order on the laundering and confiscation of the proceeds of crime and on international cooperation in that regard. The signing of this Order indicated the firm determination of the Comorian authorities to comply with the principles of the international instruments against the financing of terrorism.

The Order provides as follows:

(1) It establishes an obligation to retain, for a period of five years, documents relating to financial and related transactions;

(2) It authorizes the freezing, seizure and confiscation of funds derived from or associated with money-laundering activities;

(3) It authorizes courts to seek and obtain mutual judicial assistance, provided there is a reciprocity agreement and that the confidentiality of documents relating to financial transactions is respected;

(4) It requires non-banking financial institutions to apply the same standards as banks with regard to customer identification and declaration;

(5) It requires banks, casinos and currency traders to report unusual and suspicious transactions (depending on the amount and origin of the funds) to the Central Bank, and prohibits cash transactions exceeding 5 million Comorian francs ($12,500); and

(6) It criminalizes the provision of material support to terrorists or terrorist organizations.

In addition, on 23 September 2003 the Comoros adhered to the United Nations Convention against Transnational Organized Crime. Insofar as this instrument applies to acts of terrorism, the Comoros regards its provisions as a necessary and sufficient treaty basis for the freezing, seizure and confiscation of funds beyond State boundaries, in accordance with article 13 (6) of the Convention.

Moreover, as a State party to the Arab Convention on the Suppression of Terrorism, the Union of the Comoros is required to promote the exchange of information relating to the financing of terrorism (article 4 (I) (1) (a)), including information which may lead to the seizure of funds (article 4 (I) (4) (b)). Seizures have been made easier by the provisions of article 9 of this Convention on judicial delegation.

Finally, the Union of the Comoros has undertaken, under article 5 (2) (b) of the OAU Convention on the Prevention and Combating of Terrorism, to strengthen the exchange of information which may lead to the seizure and confiscation of funds. In this case also, seizures have been made easier by the provisions on mutual legal assistance (article 15).

Under article 10 of the Constitution of the Union of the Comoros, treaties or agreements which have been duly ratified or adopted take precedence, following their publication, over the laws of the Union and its islands, subject to the application by the other party of each agreement or treaty.

Subparagraph 1 (d)

Please outline in detail the instructions given by the Minister of Finance, Budget and Privatization to the financial institutions in order to prevent and trace the financing of terrorism. Do those instructions have the force of law? Are financial institutions and other intermediaries under a legal obligation to report suspicious transactions to the authorities? If so, are they subject to penalties for non-compliance with that obligation?

According to article 3-1-4 of Order No. 03-002/PR of 28 January 2003, all natural or legal persons, including accountants and auditors, are required to report to the financial information service transactions involving deposits, exchanges, investments, conversions or other movements of capital relating to funds which appear to derive from actions that may constitute a crime or offence. Under article 42-2-5g of this Order, anyone who wilfully neglects to report a suspicious transaction, where the circumstances of the transaction indicate that the funds or assets might derive from such crime or offence, will be subject to a term of imprisonment of one to five years and to a fine not exceeding 50 million Comorian francs.

What measures exist to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted for other purposes, particularly for financing terrorism?

The Comorian authorities are prepared to negotiate bilateral, regional and multilateral agreements or the inclusion in treaties on judicial cooperation provisions expressly designed to trace funds donated abroad for charitable, social, religious or cultural purposes on Comorian territory and vice versa.

Subparagraph 2 (a)

Please explain what provisions exist in the Comoros that deal with the possession of, and trade in, firearms.

On 29 June 2002, the World Customs Organization (Customs Cooperation Council), of which the Union of the Comoros is a member, adopted a recommendation on this Protocol in which its members were urged to adopt the principles laid down in the Protocol with a view to strengthening controls on the import, export and transit of firearms and to apply them to all categories of firearms and their parts, components and ammunition.

In the light of this recommendation, and in accordance with the commitments undertaken in:

- The Port Louis Declaration (A/59/811), adopted on 27 October 2004 by the Regional Ministerial Conference of French-speaking Countries of Africa for promotion of the ratification and implementation of the United Nations conventions on combating terrorism, corruption and transnational organized crime and of the universal counter-terrorism instruments, which was held in the capital of Mauritius from 25 to 27 October 2004, and
- In the conclusions and recommendations adopted by the participants in the subregional expert seminar for the implementation of the universal counter-terrorism instruments and the United Nations Convention against Transnational Organized Crime and its three Protocols, held at Bamako from 25 to 28 November 2003,

the Comorian authorities are examining the possibility of adhering to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, to which the Union of the Comoros is a State Party. Moreover, article 301 of the Comorian Penal Code criminalizes the manufacturing and illicit transfer of firearms of any kind which are prohibited by statute and regulation.

What measures exist that deal with the recruitment to terrorist groups in the Comoros, operating either within its territory or abroad?

The draft law on the prevention and suppression of terrorism is intended to criminalize the recruitment of terrorists in the Comoros.

Subparagraph 2 (b)

Please describe the mechanism to provide early warning to other countries in case of anticipated terrorist activity.

There is a central office of ICPO Interpol which, subject to the authority of the National Director for Territorial Security, is responsible for liaison with the country's other central offices and with the General Secretariat of ICPO Interpol. Its mission is to assist the police, gendarmerie, customs service and all other public services involved in combating terrorism and transnational crime and in transmitting information to be sent abroad or received from abroad. For this purpose, a communications system referred to as I-24/7, is being installed in the office. The equipment is already in place.

The request for technical assistance set out below takes account of the fact that the 17 standards included in the "Framework of Standards to Secure and Facilitate Global Trade", adopted on 23 June 2005, is intended to form an early warning system to prevent terrorist acts and combat international organized crime in order to ensure the proper functioning of economic and social development programmes.

Subparagraph 2 (c)

What measures exist to meet the requirements of this subparagraph?

The authorities of the Comoros are examining the possibility of incorporating into its law an explicit prohibition against granting asylum to persons who finance, organize, support or commit acts of terrorism, or who harbour the perpetrators.

Subparagraph 2 (d)

What provisions or procedures exist to prevent the territory of the Comoros from being used for terrorist activity abroad?

The draft law on the prevention and suppression of terrorism will include a provision conferring competence on the Comorian authorities to deal with offences covered by the universal counter-terrorism instruments if the alleged perpetrator of one or more of these offences is on Comorian territory, wherever the offence was committed and regardless of the nationality of the alleged perpetrator. The Union of the Comoros reserves the right to prosecute or to extradite the person in question, at its discretion.

In addition, Decree No. 05-034/PR of 19 May 2005 established the National Office for Documentation and Protection of the State (DNDPE), one of whose main functions is to suppress any national or transnational terrorist organization or enterprise. A member of the country's judiciary will be appointed by the President of the Union of the Comoros to deal with matters relating to the suppression of such organizations and enterprises.

Subparagraph 2 (e)

Please outline any existing provisions of the Penal Code that criminalize terrorist activities that contribute to compliance with this subparagraph.

The draft law on the prevention and suppression of terrorism will contribute to compliance with this subparagraph while taking account of the interpretation of the subparagraph given in paragraph 3 of Security Council resolution 1456 (2003).

Subparagraph 2 (f)

Please describe the procedures available to provide assistance to other countries in criminal investigations or criminal proceedings relating to terrorism.

The procedures available derive from the international legal instruments by which the Union of the Comoros is bound.

These are, primarily:

- Subparagraph 2 (f) of Security Council resolution 1373 (2001);
- Articles 13 and 18 of the United Nations Convention against Transnational Organized Crime;
- Articles 4 and 9 to 21 of the Arab Convention on the Suppression of Terrorism;
- Articles 5 and 14 to 17 of the OAU Convention on the Prevention and Combating of Terrorism.

In addition, the Union of the Comoros took part in the conference of national security directors of the Committee of Intelligence and Security Services of Africa (CISSA), held on 26 August 2004 in the capital of Nigeria. The participants in that conference recognized the need to set up a mechanism for pan-African consultation, through CISSA, on information and security.

What is the time frame within which a request for judicial assistance in criminal investigations or criminal proceedings, including those relating to the financing or support of terrorist acts, must be met? How long does it take in practice to implement such a request in the Comoros?

The time frame depends on the specific cases in which the Comoros is asked for judicial assistance. The Comorian authorities endeavour to meet such requests within a reasonable time.

Subparagraph 2 (g)

What measures have been taken to prevent the counterfeiting, forgery or fraudulent use of identity papers and travel documents?

Articles 136 and 137 of the Penal Code provide for the punishment of anyone who falsifies administrative documents for the purpose of obtaining travel documents or certificates.

See also the request below for assistance.

Subparagraphs 3 (a), (b) and (c)

Please provide a list of the countries, if any, with which the Comoros has concluded bilateral treaties on mutual legal assistance, exchange of information and extradition in matters relating to terrorism.

In 1976, the Union of the Comoros concluded a bilateral treaty with Madagascar on mutual legal assistance, extradition and exchange of information.

Subparagraphs 3 (d) and (e)

The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by the Comoros in:

- **becoming a party to the instruments to which it is not yet a party; and**
- **enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

As of 25 September 2003, the Union of the Comoros had ratified the following legal instruments:

1. The Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963, ratified on 23 May 1991;

2. The Convention for the Suppression of Unlawful Seizure of Aircraft, 1970, ratified on 1 August 1991;

3. The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971, ratified on 1 August 1991;

4. The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973, ratified on 25 September 2003;

5. The International Convention against the Taking of Hostages, 1979, ratified on 25 September 2003;

6. The International Convention for the Suppression of Terrorist Bombings, 1997, ratified on 25 September 2003;

7. The International Convention for the Suppression of the Financing of Terrorism, 1999, ratified on 25 September 2003.

By 31 December 2005, the Union of the Comoros expects to ratify:

1. The Convention on the Physical Protection of Nuclear Material, 1979;

2. The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988;

3. The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988;

4. The Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988; and

5. The Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991.

The draft law on the prevention and suppression of terrorism should go a long way towards ensuring compliance with the provisions of these conventions. The Order of 28 January 2003 on the laundering and confiscation of the proceeds of crime and on international cooperation in that regard was signed in order to ensure compliance with the International Convention for the Suppression of the Financing of Terrorism.

Subparagraph 3 (f)

What provisions and procedures exist to meet the requirements of this subparagraph?

See the request below for technical assistance.

Subparagraph 3 (g)

What is the legal basis for extradition? Is it governed by legislation, treaties, or both? Please outline any relevant provisions.

The legal basis for extradition is the bilateral treaty mentioned above in reply to subparagraphs 3 (a), (b) and (c) of Council resolution 1373 (2001).

Legal bases are also found in:

- Articles 22 to 28 of the Arab Convention on the Suppression of Terrorism; and
- Articles 8 to 13 of the OAU Convention on the Prevention and Combating of Terrorism.

The Comorian authorities are examining the possibility of treating the universal conventions and protocols on the prevention and suppression of terrorism as the legal basis for extradition for the offences defined in these instruments.

Extradition is also governed by the French Code of Criminal Procedure of 1970, which was adopted by the Union of the Comoros at its independence.

Please explain whether claims of political motivation are recognized as grounds for refusing extradition of alleged terrorists.

The draft law on the prevention and suppression of terrorism will ensure that claims of political motivation cannot be made to justify refusing requests for the extradition of terrorists, in accordance with:

- Subparagraph 3 (g) of Council resolution 1373 (2001);
- Article 11 of the International Convention for the Suppression of Terrorist Bombings; and
- Article 11 of the International Convention for the Suppression of the Financing of Terrorism.

Assistance

The Comoros is requesting technical assistance in the following areas:

- Compiling a reliable civil register;
- Border control, especially in defining standards for gathering information about passengers and disseminating this information and any warnings concerning passengers; establishing minimum standards for the issue of identity and travel documents; establishing minimum standards and formulating recommendations for the use of biometric techniques in screening procedures and in the issuance of identity and travel documents; and establishing minimum standards for the equipment used to verify the authenticity of identity documents on entry into or departure from the territory of the Comoros;
- The marking of firearms;
- The maritime sector, especially the introduction of the ISPS Code (in line with IMO maritime security requirements) and training schemes; evaluation of port and ship facilities; preparation of a port security plan; and elaboration of Comorian regulations governing maritime security;
- Establishment of units to combat terrorism and transnational organized crime, scientific and technical police units, and anti-drug units and training of bomb disposal experts;
- Provide local partners with the technical and scientific resources needed to identify drugs, take fingerprints and preserve data.

The Comoros would also welcome assistance in implementing the Framework of Standards to Secure and Facilitate Global Trade, adopted on 23 June 2005 by the chief customs officers representing the 166 members of the World Customs Organization, including the Comoros, for the purpose of, inter alia, protecting international trade from the threats posed by international terrorism and organized crime.

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Security Council

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Letter dated 29 July 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 23 February 2005 (S/2005/113). The Counter-Terrorism Committee has received the attached fifth report from Cyprus submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

05-45762 (E) 250805

Annex

Letter dated 27 July 2005 from the Permanent Representative of Cyprus to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Upon the instructions of my Government, I have the honour to transmit herewith the fifth report of the Republic of Cyprus to the Counter-Terrorism Committee (see enclosure).

I would like to take this opportunity to reiterate the great appreciation of the Government of the Republic of Cyprus for the close cooperation of the Counter-Terrorism Committee and to reaffirm our commitment to provide the Committee with any additional information that the Committee deems necessary or may request.

(*Signed*) Andreas D. **Mavroyiannis**

Enclosure

Fifth report on the implementation of Security Council resolution 1373 (2001)

Effectiveness in protection of economic and financial system

1. Implementation measures

1.1. Regarding the implementation of subparagraph 1 (b) and (d), the most recent report (see paragraph 1.2) makes reference to legislation intended to amend the law ratifying the International Convention for the Suppression of the Financing of Terrorism in order not to exclude citizens of Cyprus from the application of the Convention. The CTC would appreciate receiving updated information regarding the adoption of this law by the Parliament of Cyprus.

In addition to this measure, however, the CTC would like to emphasize that the effective implementation of subparagraph 1 (b) of the resolution requires a State to have in place measures specifically criminalizing the wilful provision or collection of funds by its nationals, or on its territory, by any means directly or indirectly, with the intention that the funds should be used, or in the knowledge that they are to be used to carry out a terrorist act. For an act to constitute an offence as described above, it is not necessary that the funds actually be used to carry out a terrorist offence (see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism). The acts that are to be criminalized are thus capable of being committed even if:

- The only terrorist act that takes place, or is intended to take place, is outside the country;
- No related terrorist act actually occurs, or is attempted;
- The funds are legal in origin.

As article 58 of the Criminal Code does not appear to be sufficient to fulfil the requirements of the resolution, the CTC would be grateful to be informed of the steps Cyprus will take in this regard.

1. Implementation measures

1.1. The amending bill of the Ratification Law of the International Convention for the Suppression of the Financing of Terrorism has been approved by the Council of Ministers and it is already before the Parliament for enactment. The relevant Parliamentary Committee is discussing the Bill, which is expected to be enacted before the summer vacations of the Parliament.

As far as the content of the rest of paragraph 1.1. in relation to article 58 of the Criminal Code is concerned, and in particular the alleged or interpreted lack of a legal provision to cover the instances prescribed in aforementioned paragraph, the following should be mentioned:

These instances are covered effectively with the implementing provisions of the Ratification Law of the International Convention for the Suppression of the

Financing of Terrorism (Law No. 29 (III) of 2001), and specifically, with section 4, which refers to *Article 2 of the Convention*.

Section 4 provides as follows:

"The offences referred to in article 2 of the Convention are punishable with imprisonment up to fifteen years or with a fine of one million Cyprus pounds or both such imprisonment and fine."

From the wording of the above-mentioned provision and the direct reference to article 2 of the Convention, it is clear that instances or acts mentioned in the said paragraph of the letter of the CTC are criminalized.

Furthermore, it is useful to mention again that section 8 of the above-mentioned Ratification Law provides that "Acts that constitute offences by virtue of article 2 of the Convention and section 4 of this Law or acts that constitute a violation of article 2 of the Convention, are considered, as predicate offences as if included in section 5 of the Prevention and Suppression of Money Laundering Activities Law ...".

United Nations S/2005/502/Add.1

Security Council

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11 August 2005

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Letter dated 9 August 2005 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached addendum to the fifth report from Cyprus submitted pursuant to paragraph 6 of resolution 1373 (2001) (S/2005/502) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ronaldo Mota **Sardenberg**
Acting Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

05-45911 (E) 290805

Annex

Letter dated 1 August 2005 from the Permanent Representative of Cyprus to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Further to my previous communication dated 27 July 2005, I have the honour to bring to your attention that the amending bill of the Ratification Law of the International Convention for the Suppression of the Financing of Terrorism was enacted by the Parliament of the Republic of Cyprus on 22 July 2005.

I should be grateful if that development could be reflected as an addendum to the fifth report of the Republic of Cyprus to the Counter-Terrorism Committee.

I would like to take this opportunity to reiterate the great appreciation of the Government of the Republic of Cyprus for the close cooperation of the Counter-Terrorism Committee and to reaffirm our commitment to provide the Committee with any additional information that the Committee deems necessary or may request.

(*Signed*) Andreas D. **Mavroyiannis**